

Remarks/Arguments

Responsive to the Office Action mailed October 31, 2007, Applicant requests that the rejection of Claims 1-15 be reconsidered in view of the following remarks:

Applicant has corrected a minor translation error that appeared on pages 2 and 3.

The rejection of Claims 2 and 6 under 35 USC 112 has been addressed.

All of the Claims, 1-15, are rejected as anticipated by Uhlmeyer U.S. 5,950,366. Respectfully, Applicant disagrees.

In describing the manner in which Uhlmeyer anticipates Claim 1, the Examiner points out that Uhlmeyer discloses a weatherstrip assembly for sealing a folding hardtop provided with a weatherstrip having a sealing section 40 and a fastening section 50. The Examiner goes on to say that the sealing section (40) comprises a sealing lip (not specifically identified) made of an elastically deformable material for pivoting from a first position into a second position (not shown or referred to with respect to Uhlmeyer), and provided with at least one springy restoring element (not specifically identified), wherein the sealing lip comprises a free end section (not identified) provided with a strip-shaped tensioning element (not identified with respect to Uhlmeyer) in Figure 1.

Applicant respectfully submits that Claim 1 is not anticipated by Uhlmeyer. Although the Examiner refers to Figure 1, essentially nothing of the structure of Uhlmeyer is visible in Figure 1, and Applicant therefore presumes that the Examiner means to refer to Figure 2 which does, in fact, show some of the details of Uhlmeyer.

First of all, the elements that the Examiner has identified as corresponding to the sealing section (40) and the fastening section (50) form seals to the upper edge (25) of windshield (26) and not to the roof member (22). Furthermore, there is nothing in Uhlmeyer that suggests that the fastening section or the sealing lip pivot between first and second positions, and in fact, it would make no sense for them to do so since if they did, the windshield would fall out, or at least the seal would be destroyed and water would leak in.

Furthermore, although the Examiner does not identify it as such, Applicant supposes that Uhlmeier's side-like portion (54) and horizontal lower leg portion (53) of his core member (70) which serves as a "substrate" for the windshield lip portion (40) and the base retainer portion (50) must correspond to Applicant's at least one springy restoring element (for example, element (40) is shown in Figures 2 and 3). Uhlmeier does not describe the core member (70) as being springy or having a restoring function. Rather, all Uhlmeier says is that the core member (70) is preferably made of a material which is stiffer than the base material (72), that the core member (70) is preferably made of a metal such as stainless steel (which is not necessarily springy but could be substantially rigid), and that the core member (70) may be made of a suitable material such as plastic or composite which is preferably stiffer than the base material (72) for adding structural support to the base retainer portion and the windshield lip portions. Again, plastic is not inherently springy. None of this suggests that the core member (70) is a springy restoring element, and in fact, since as already described, there is no pivoting from a first position into a second position, there is no need for a springy restoring element. Rather, it appears that the seal structure of Uhlmeier simply fastens into place and the sealing section (40) and fastening section (50) do not move in response to opening and closing of the roof member (22). All that happens when the roof member (22) opens and closes is that the bulbous sealing portions (60) and (62) deform in response to movement of the roof member (22). It appears that the core member (70) has nothing whatsoever to do with this deformation.

Furthermore, there is nothing in Uhlmeier, and the Examiner points to nothing that corresponds to Applicant's claimed free-end section of Applicant's sealing lip being provided with a strip-shaped tensioning element. This is element (50) in Figure 1 of the present application, and the Examiner points to nothing in Uhlmeier that corresponds to this element, nor does Applicant perceive anything. If Uhlmeier has a sealing lip with a free-end section, Applicant supposes that it must be the portion of Uhlmeier's seal immediately to the left of the reference numeral 40 in Figure 2. However, as already discussed, that seal engages the windshield, not the moveable roof panel and does not move. Moreover it does not have anything corresponding to the claimed strip-shaped tensioning element. At best, a portion of Uhlmeier's core member (70) extends part-way into the windshield lip portion (40), but even that does not extend to the free end, and the core member (70) has already been assigned to Applicant's springy restoring element. Neither the Examiner, nor more importantly Uhlmeier, explain how the core member (70) satisfies both limitations of Applicant's claim.

Applicant respectfully submits that for the reasons set forth above, Uhlmeier fails to anticipate Applicant's invention as claimed. Accordingly, reconsideration and favorable action are requested. Applicant points out, though it should not be necessary, that if a new rejection is made, there is no way that the editorial changes that Applicant has made to the claims necessitate the new rejection; and therefore, any new grounds of rejection should not be made final lest Applicant's attorneys lose faith in the Examiner's good faith.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. Salai", is written over a horizontal line.

Dated: January 9, 2008

Stephen B. Salai, Registration No. 26,990
Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, New York 14604
Telephone: 585-232-6500
Fax: 585-232-2152